

**OPINION**  
**46-195**

July 17, 1946            (OPINION)

OFFICERS

RE:   Offices of County and City Justices Not Incompatible

This office is in receipt of your letter of July 12, 1946, in which you request our opinion as to whether the offices of county justice of the peace and city justice of the peace are compatible. In other words, you desire our opinion as to whether or not the same person can hold the office of city justice of the peace and county justice of the peace.

Under the provisions of section 40-1802 of the 1943 Revised Code, a city justice of the peace has the same jurisdiction as a county justice. A city justice has the additional jurisdiction of acting as police magistrate "during the temporary absence, interest, or disability of the official". (Section. 40-1803 of the Revised Code).

Insofar as I can see, there is no incompatibility between the office of city justice and county justice. Although the general rule is that the same person should not hold two elective offices, I cannot see any conflict of interest. The compensation of justices of the peace is based on fees--not salaries. Therefore, it cannot be said that a person holding the office of city justice and county justice is drawing compensation for two elective officers. And in any action where there is a conflict of interest between the county and city, the city justice can disqualify himself, or a change of venue can be taken.

NELS G. JOHNSON

Attorney General